

REMARKSIntroduction

Claims 5, 6, 11-22, 24-28, 30-32, 34, 36-42, and 47-50 will be pending in the instant application after entry of the above amendments. This paper amends claims 5, 6, 11-14, 19, 22, 24, 26-28, 31, 32, 34, 36, 38, 39, 41, 42, and 47-50; does not add new claims; and cancels claims 1, 3, 4, 7, 10, 33, 35, 43, and 46. Claim amendments and cancellations are made without acquiescence to the rejections, without prejudice, without disclaimer, and without intent to dedicate to the public. Claims 5, 11, 14, 19, 22, 27, 32, 34, 36, 39, 42, 47, and 50 will be the independent claims of the application. The amendments are fully supported by the original specification and no new matter has been added.

In the Office Action dated September 8, 2010, the Examiner (1) objected to claims 43 and 46-49, requiring an express recitation of “non-transitory”; (2) rejected claims 1, 3, 4, 7, 42, 43, 46, and 50 under 35 U.S.C. § 103 as being unpatentable over Gustafsson *et al.*, U.S. Patent Number 7,024,168 (“Gustafsson” in this paper) in view of Rich, U.S. Patent Number 5,940,452 (“Rich”); (3) rejected claims 14-19, 20-22, 24, 26-28, and 30-41 under 35 U.S.C. § 103 as being unpatentable over Gustafsson in view of Rich, and further in view of Willey, U.S. Patent Number 6,505,058 (“Willey”); (4) objected to claims 5, 6, and 11-13 as being dependent on rejected base claims, but indicated that each of these claims would be allowable if rewritten in independent form including all of the limitations in its respective base claim and any intervening claims; and (5) objected to claims 47-49 as being dependent on a rejected base claim, but indicated that each of these claims would be allowable if rewritten in independent form including all of the limitations in its base claim and any intervening claims, and expressly to recite “non-transitory” in these claims.

Applicants respectfully respond to the Office Action.

Allowable Subject Matter and Objections

Applicants and the undersigned attorney gratefully acknowledge the notification of allowable subject matter in claims 5, 6, 11-13, and 47-49.

Claim 5 has been rewritten in independent form, including all of the limitations of its base claim 1 and intervening claim 4. Claim 5 should therefore be allowable. Claim 6 depends from claim 5 and therefore should also be allowable.

Claim 11 has been rewritten in independent form, including all of the limitations of its base claim 7 and intervening claim 10. Claim 11 should therefore be allowable. Claims 12 and 13 depend from claim 11 and therefore should also be allowable.

Claim 47 has been rewritten in independent form, including all of the limitations of its base claim 43 and intervening claim 46, and including a recitation of “non-transitory” as required by the Examiner. (A duplication of a limitation relating to the reducing step that was present in both step 43 and step 46 has been omitted.) Claim 47 should therefore be allowable. Claims 48 and 49 depend from claim 47 and therefore should also be allowable.

Art Rejections

Claims 14, 19, 42, and 50

Each of these independent claims has been amended to recite the limitations relating to the adjustment of the delta or difference of the two thresholds in response to mobility. The added limitations are identical or analogous to those in the allowable claims 5, 6, 11-13, and 47-49. Therefore, claims 14, 19, 42, and 50 should also be allowable.

Claims 22, 27, 32, 34, 36, and 39

Independent claim 22 has been amended to clarify that the step of *determining receive diversity* is performed in response to said determined first bit (of QPCH) being a one or an erasure. The amendment is supported, for example, in Figure 8 (steps 801/803). The references, separately or in combination, apparently do not disclose or suggest that the receive diversity is determined in response to particular values of the first QPCH bit (and consequently is not determined in response to the bit having a different value). Gustafsson, in particular, apparently fails to disclose that the receive diversity is determined specifically in response to a particular value of a bit such as the first QPCH bit. Applicants respectfully submit that claim 22 is patentable at least for this reason. Independent claim 27 has been amended in a manner

analogous to that of claim 22, and recites analogous limitations. Applicants respectfully submit that claim 27 is patentable at least for the same reason as claim 22.

Independent claim 32 has been amended to clarify that the step of *determining receive diversity* is performed in response to said determined second bit (of QPCH) being an erasure. The amendment is supported, for example, in Figures 9 (steps 903/905) and 10 (steps 1003/1006). The references, separately or in combination, apparently do not disclose or suggest that the receive diversity is determined in response to a particular value of the second QPCH bit (and consequently is not determined in response to the bit having a different value). Gustafsson, in particular, apparently fails to disclose that the receive diversity is determined specifically in response to a particular value of a bit such as the second QPCH bit. Applicants respectfully submit that claim 32 is patentable at least for this reason. Independent claim 34 has been amended in a manner analogous to that of claim 32, and recites analogous limitations. Applicants respectfully submit that claim 34 is patentable at least for the same reason as claim 32.

Independent claim 36 has been amended to clarify that the step of *determining first receive diversity* is performed in response to said determined first data bit (of QPCH) being an erasure. The amendment is supported, for example, in Figures 8 (steps 801/803) and 10 (steps 1001/1005). The references, separately or in combination, apparently do not disclose or suggest that the receive diversity is determined in response to a particular value of the first QPCH bit. Gustafsson, in particular, apparently fails to disclose that the receive diversity is determined specifically in response to a particular value of a bit such as the first QPCH bit. Applicants respectfully submit that claim 36 is patentable at least for this reason. Independent claim 39 has been amended in a manner analogous to that of claim 36, and recites analogous limitations. Applicants respectfully submit that claim 39 is patentable at least for the same reason as claim 36.

Remaining Dependent Claims

Dependent claims not addressed above are patentable at least for the reasons discussed above in relation to their respective base claims and intervening claims, if any.

CONCLUSION

In view of the foregoing, Applicants submit that all pending claims in the application are in condition for allowance. Accordingly, favorable reconsideration and allowance of the present application are respectfully requested. Should any issues remain unresolved, the Examiner is requested to telephone the undersigned at the number provided below.

No fee is due for entry of this paper. If it is determined that additional fees are in fact due, the Commissioner is hereby authorized to charge payment of any fee(s) or any underpayment of fee(s) or credit any overpayment(s) to Deposit Account No. 17-0026. If necessary, Applicants request, under the provisions of 37 CFR 1.136(a), to extend the period for filing a reply in the above-identified application and to charge to the same Deposit Account the time extension fees for a large entity under 37 CFR 1.17(a).

Respectfully submitted,

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